



US Army Corps
of Engineers

Detroit District

Joint Public Notice



Applicant: R. McKee Inc.

In Reply Refer To: Corps File No. 03-156-022-0

Date: October 18, 2004

Expires: November 16, 2004

Proposed Discharge in Montgomery Ditch for Stream Relocation to Facilitate Limestone Mining, near Kentland, Indiana

Applicant: R. McKee Inc., 16369 South County Road 50 East, Kentland, IN, 47951

Project Location: in Montgomery Ditch, a tributary of the Iroquois River, Section 30, Township 27N, Range 8W, Newton County, Indiana. The site is located at 235 East US Highway 24, about 0.2 mile southeasterly from the intersection of South Meridian Road and US 24 near Kentland, Indiana.

Federal Authority: The applicant has applied for a Department of the Army permit under Section 404 of the Clean Water Act.

State Authority: A DA permit, if otherwise warranted, will not be issued on this project until a Section 401 Water Quality Certification (WQC) from the Indiana Department of Environmental Management (IDEM) is on file in this office or it is considered waived. This Public Notice serves as the notice for a Clean Water Act, Section 401 application for water quality certification from the IDEM. IDEM will review this proposal for compliance with the applicable provisions of Section 301, 302, 303, 306 and 307 of the CWA, including the state water quality standards currently set forth at 327 IAC 2. They will consider comments regarding this proposal postmarked by the closing date of this notice. Comments to IDEM should be addressed to: IDEM, Office of Water Management, Section 401 WQC Program, 100 N. Senate Av. Room 1255, P. O. Box 6015, Indianapolis, Indiana 46206-6015. The applicant is responsible for obtaining the certification from IDEM.

Project Description: As shown on the attached plans, the applicant proposes to discharge material in Montgomery Ditch, to relocate about 3,434 linear feet of the waterway. The overall project would be accomplished in three phases. Phase 1 would excavate a new channel along 2,300 linear feet between entry and exit points on the existing waterway. Erosion control measures and best management practices would be implemented in the new waterway. Excavation of about 863,740 cubic yards of material would be done in the dry. Excavated material would be used in the quarry operation or stockpiled on upland. In Phase 2 material would be excavated from both ends of the new ditch to allow initial flow. Conditions in the new waterway would be reviewed, and correction of deficiencies or obstructions implemented. In Phase 3, about 30 cubic yards of material would be discharged in a 7 x 12 foot area at the upstream end of the existing

Montgomery Ditch to divert flow to the new channel. Approximately 6 cubic yards of riprap would be discharged in a 7 x 12 foot area along the face of the fill. At the downstream end, about 160 cubic yards of material would be discharged in a 8 x 22 foot area of existing Montgomery Ditch, and an additional 16 cubic yards of riprap would be discharged in a 8 x 22 foot area along the face of the fill. Discharge of material in the remaining 3,386 linear feet of ditch would occur as part of the mining operation. Following mining, material may be discharged in the former waterway to return to farmland. The purpose of the work is to mine limestone..

Other Authorizations: The applicant has not indicated that he has received or requested any other governmental authorization.

Comments: We are publishing this notice in compliance with Title 33 Code of Federal Regulations Parts 320-330 and the Indiana statutes listed above. Comments on the project should be submitted in writing and postmarked or delivered by the expiration date of this public notice. Comments of a positive or negative nature may be submitted. All responses must refer to file number 03-156-022-0. We will interpret a lack of response as meaning that there is no objection to the permit application. Comments should be filed with: Henry Rosenfield, Acting Chief, Permit Evaluation Branch A, Regulatory Office, Detroit District, Corps of Engineers, P.O. Box 1027, Detroit, Michigan 48231. Comments may be e-mailed to: Charles.M.Simon@usace.army.mil, but must include a name and mailing address.

Public Hearing: Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

Evaluation: The decision whether to issue the Department of the Army permit will be based on evaluation of the probable impact of the proposed activity on the public interest. These decisions will reflect the national concerns for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To

make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

This activity involves the discharge of dredged or fill material into waters of the United States. Therefore, the U.S. Army Corps of Engineers' evaluation of the impact of the activity on the public interest will include application of the guidelines promulgated by the Administrator of the Federal Environmental Protection Agency, under the authority of Section 404(b)(1) of the Clean Water Act.

Endangered Species: We will review this application for the potential impact on threatened or endangered species pursuant to Section 7 of the Endangered Species Act as amended. We are not aware of the presence of any listed species or critical habitat at or in the vicinity of the proposed worksite. We invite information and/or comments regarding the potential presence of, or impacts to, any listed species or critical habitat.

Cultural Resources: The District Staff has reviewed existing information on historic properties potentially affected by the proposed project, including the National Register of Historic Places. There are no recorded historic properties within the permit area. The permit area has been actively farmed in modern times. The District Engineer invites responses to this Public Notice from federal, state and local agencies, historical and archaeological societies, Indian tribes, and other parties likely to have knowledge of or concerns with historic properties in the area.

Additional Information: Questions concerning this application may be directed to Charles M. Simon at the Corps of Engineers address listed above, or telephone number (313) 226-2221.

FOR THE DISTRICT ENGINEER:

Henry Rosenfield
Acting Chief, Permit Evaluation Branch A
Regulatory Office

NOTICE TO POSTMASTERS:

We request that the above notice be conspicuously and continuously posted for the time period of this notice.